

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions Naming The Saint Thomas  
Outpatient Neurosurgical Center

**MOTION FOR DISBURSEMENT OF  
SAINT THOMAS QUALIFIED SETTLEMENT FUND ADMINISTRATIVE EXPENSES**

As the Court is well aware, the Plaintiffs' Steering Committee and the defendants involved in cases stemming from injections at the Saint Thomas Outpatient Neurosurgical Center (the "Saint Thomas Defendants") reached a global settlement involving all cases in September of 2016 (the "Saint Thomas Settlement").

Pursuant to the terms of the Saint Thomas Settlement Claims Resolution Facility Procedures (the "Matrix") which was incorporated into the Master Settlement Agreement governing the Saint Thomas Settlement, the administrative expenses to administer the fund are to be paid from the Saint Thomas Settlement. The present Motion seeks an order from this Court allowing the payment of such administrative expenses.

**Payment to Escrow Agent In the Amount of \$ 26,129.**

A payment administrator and escrow agent was needed to administer the QSF. The PSC hired Epiq Systems, Inc. ("Epiq") as the escrow agent given its familiarity with the claimants and the present litigation (Epiq had previously acted as Settlement Administrator with regard to the NECC Tort Trust claims process).<sup>1</sup>

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<sup>1</sup> The PSC has previously submitted to the Court the Escrow Agent Agreement that governs Epiq's work as Fund Administrator and Escrow Agent. Dkt. No. 3318. The Court approved the creation of the Qualified

Epiq provides the following services: 1) set up and establish the escrow account with the bank holding the funds; 2) aid in the payment of individual awards to individual claimants by cutting checks and mailing checks to individual claimants; 3) aid in lien clearance and help ensure that claimants have satisfied certain lien obligations prior to payments to individual claimants;<sup>2</sup> and 4) field questions and emails from claimants and claimants' counsel on status of payment, lien resolution, and administration.<sup>3</sup>

On June 28, 2017, the PSC submitted a motion for disbursement of administrative expenses to Epiq in the amount of \$ 39,375.51 for the work performed as escrow agent and fund administrator and invoiced through June 2017. (Dkt. 3412.) In that motion, the PSC informed the court that it reasonably anticipated receiving additional invoices from Epiq before it completes its work as the escrow agent for the QSF. (*See id.*) The Court granted the PSC's motion on June 30, 2017. (Dkt. 3417.)

The PSC respectfully requests that the Court authorize an additional payment of \$26,129.00 for the work and expenses incurred by Epiq and invoiced through September 2017. The PSC does not anticipate receiving any additional invoices from Epiq. A declaration from Epiq's project manager, Steven Gassert, detailing Epiq's work as escrow agent in this matter is attached as Exhibit A.<sup>4</sup>

A proposed order granting the present motion is attached as Exhibit B.

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Settlement Fund, which allowed the funding of the Qualified Settlement Fund by the Saint Thomas Defendants. Dkt. No. 3330.

<sup>2</sup> It should be noted that Benjamin A. Gastel from the law firm of Branstetter, Stranch, and Jennings also aids with this lien clearance. Mr. Gastel is not seeking payment of any fees for his time in this effort as part of this Motion.

<sup>3</sup> *See* Exhibit B, Declaration of Steve Gassert.

<sup>4</sup> Epiq's actual invoices contains potentially proprietary and confidential information. To avoid having to make this filing under seal, the PSC elected to have Mr. Gassert execute a declaration to exclude from the public filing any potential proprietary and confidential information.

Dated: September 20, 2017

Respectfully submitted,

**/s/ Benjamin A. Gastel**

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*Plaintiffs' Steering Committee*

**CERTIFICATE OF SERVICE**

I, Benjamin A. Gastel, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: September 20, 2017

/s/ Benjamin A. Gastel  
Benjamin A. Gastel